

Appendix A

Kentucky's NO_x SIP Call Regulations

~~401 KAR 51:001. Definitions for 401 KAR Chapter 51.~~

~~401 KAR 51:160. NO_x requirements for large utility and industrial boilers.~~

~~401 KAR 51:170. NO_x requirements for cement kilns.~~

~~401 KAR 51:180. NO_x credits for early reduction and emergency.~~

~~401 KAR 51:190. Banking and trading NO_x allowances.~~

~~401 KAR 51:195. NO_x opt-in provisions.~~

(Note: ~~401 KAR 51:200 Regional NO_x emission requirements was inadvertently listed and submitted in the October 10, 2001, submittal, and is not part of Kentucky's NO_x SIP Call SIP revision. Furthermore, this regulation is to be repealed since its purpose (i.e., the Louisville attainment demonstration) is no longer relevant with the redesignation of the Louisville area to attainment.~~)

401 KAR 51:150. NO_x requirements for stationary internal combustion engines. (Proposed adoption)

401 KAR 51:160. NO_x requirements for large utility and industrial boilers. (Proposed amendment)

**Amendment to 401 KAR 51:160. NOx requirements
for large utility and industrial boilers.**

FILED WITH LRC
TIME: <u>noon</u>
SEP 12 2005
<i>Emily B. Caudill</i> REGULATIONS COMPILER

1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 Department For Environmental Protection

3 Division for Air Quality

4 (Amendment)

5 401 KAR 51:160. NOx requirements for large utility and industrial boilers.

6 RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R.

7 51.121, 51.122, 72.2, 75.1, 75.2, 75.4, 75.11-75.13, 75.17, 75.19, 75.20, 75.24, 75.70,

8 75.72, 75.74, 75.75, Part 96, 42 U.S.C. 7410

9 STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-100, 224.20-110, 224.20-

10 120, 40 C.F.R. 51.121, 51.122, 72.2, 75.1, 75.2, 75.4, 75.11-75.13, 75.17, 75.19, 75.20,

11 75.24, 75.70, 75.72, 75.74, 75.75, Part 96, 42 U.S.C. 7410

12 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) requires the

13 [~~Natural Resources and~~] Environmental and Public Protection Cabinet to promulgate

14 administrative regulations for the prevention, abatement, and control of air pollution.

15 This administrative regulation establishes requirements for the control of nitrogen oxides

16 (NOx) emissions from large boilers and turbines used in power plants and other

17 industrial applications, pursuant to the federal mandate published under the NOx SIP

18 Call. This administrative regulation is not more stringent nor otherwise different than the

19 provisions allowed under the federal mandate.

1 Section 1. Applicability. This administrative regulation shall apply to NOx budget
2 units that are electric generating [~~electric generating~~] units or industrial boilers or
3 turbines, except as provided in Section 2 of this administrative regulation.

4 Section 2. Exemptions. (1) Exemptions based on permit limitations. A NOx budget
5 unit shall be exempt from Sections 3 to 7[~~8~~] of this administrative regulation if the owner
6 or operator complies with this subsection.

7 (a) The source shall have a federally-enforceable permit issued by the cabinet
8 containing conditions for the unit that:

9 1. Limit the unit's NOx emissions during each control period beginning in 2004 to
10 twenty-five (25) tons or less;

11 2. Restrict the unit to burning only natural gas or fuel oil during a control period in
12 2004 and each control period thereafter;

13 3. Restrict the unit's operation hours during each control period to the number
14 calculated by dividing twenty-five (25) tons of potential NOx mass emissions by the
15 unit's maximum potential hourly NOx mass emissions;

16 4. Require that the unit's potential NOx mass emissions shall be calculated
17 pursuant to 40 C.F.R. [~~GFR~~] 96.4(b)(1)(iii);

18 5. Require that the owner or operator of the unit shall retain at the source that
19 includes the unit, for five (5) years, records demonstrating that the operating hours
20 restriction, the fuel use restriction, and the other requirements of the permit related to
21 these restrictions were met; and

1 6. Require that, by November 1 of each year for which the unit is subject to the
2 federally-enforceable permit, the owner or operator of the unit, through the authorized
3 account representative, shall:

4 a. Secure and transfer to an account established pursuant to 401 KAR 51:190,
5 NOx allowances for each control period in an amount equal to the NOx emission
6 limitation (in tons of NOx) under subparagraphs 1 and 3 of this paragraph upon which
7 the unit's exemption is based; and

8 b. Report to the cabinet the unit's hours of operation (treating any partial hour of
9 operation as a whole hour of operation) and the number of NOx allowances transferred
10 pursuant to clause a of this subparagraph.

11 (b) A unit with an exemption based on permit limitations shall become subject to all
12 the applicable provisions of this administrative regulation and shall be treated as
13 commencing commercial operation on September 30 of any control period for which:

14 1. The fuel use restriction in paragraph (a)2 of this subsection or the operating
15 hours restriction in paragraph (a)3 of this subsection is removed from the unit's
16 federally-enforceable permit or otherwise becomes no longer applicable; or

17 2. The unit does not comply with the restrictions of this subsection.

18 (c) Units exempted under this subsection shall not receive a NOx allowance
19 allocation under Section 4 of this administrative regulation.

20 (d) By November 30 of each year beginning in 2004, the cabinet shall report to the
21 U.S. EPA:

22 1. The total NOx emission limitation (in tons of NOx) for all units exempted under
23 this subsection; and

1 2. The total NOx allowances reported to the cabinet pursuant to paragraph (a)6b of
2 this subsection.

3 (e) For units exempted under this subsection, the cabinet shall notify the U.S. EPA,
4 in writing:

5 1. Of permit changes that remove a limit or render it no longer applicable; and

6 2. Any violation of a permit limit imposed pursuant to paragraph (a) of this
7 subsection.

8 (2) Retired unit exemption.

9 (a) A NOx budget unit shall be exempt from the requirements in Sections 3 to 7 of
10 this administrative regulation on the date that the unit is permanently retired, if the
11 following conditions are met:

12 1. Except as provided in paragraph (b) of this subsection, the retired unit shall not
13 emit NOx on or after the day it is retired; and

14 2. Within thirty (30) days after the unit is retired, the NOx authorized account
15 representative shall submit:

16 a. A letter to the cabinet and to the U.S. EPA describing the unit, the date of
17 retirement, and the reason for retirement; and

18 b. An application for a permit revision that reflects the status of the retired unit
19 pursuant to 401 KAR 52:020 or 401 KAR 52:030, as appropriate; and

20 3. Unless the unit has been physically removed, records to demonstrate that the
21 unit has not been operated shall be:

22 a. Maintained on-site for five (5) years from the date of retirement; and

23 b. Made available to the cabinet or the U.S. EPA upon request.

1 (b) Operation of a retired unit shall not be resumed unless the owner or operator
2 submits an application and receives a permit revision pursuant to 401 KAR 52:020 or
3 401 KAR 52:030, as appropriate, prior to commencing operation.

4 (c) A retired unit shall not be allowed to opt into 401 KAR 51:190, Banking and
5 trading NOx allowances, and shall not receive a NOx allowance allocation under
6 Section 4 of this administrative regulation.

7 (d) NOx allowances made to a unit that later retires shall:

- 8 1. Remain with the unit until they are transferred or deducted; and
- 9 2. Cease to be allocated to the unit at the end of the allocation period.

10 (e) The cabinet shall notify the U.S. EPA, in writing, of units that are exempted
11 under this subsection.

12 (3) Category exemption. A carbon monoxide boiler that is associated with fluidized
13 catalytic cracking units (FCCU) at petroleum refineries shall be exempt from the
14 requirements in Sections 3 to 7 of this administrative regulation.

15 Section 3. Compliance Requirements. (1) NOx budget emissions limitation
16 requirements. Commencing with the later date of May 31, 2004, or the year the unit
17 commences operation, the owner or operator of a NOx budget unit shall:

18 (a) Beginning May 1, 2003, and May 1 of each year thereafter, monitor the total
19 NOx emissions during each control period as specified in 40 C.F.R. [GFR] 96.70 to
20 96.76; and

21 (b) By November 30 of each year, hold NOx allowances available for compliance
22 deductions in an amount at least equal to the total NOx emissions during the control
23 period as specified in 401 KAR 51:190.

1 (2) NOx allowance provisions. NOx allowances shall be held in, deducted from, or
2 transferred among the NOx compliance, overdraft, and general accounts as specified in
3 401 KAR 51:190 and this subsection.

4 (a) The NOx budget source shall establish a general account in the NOx allowance
5 Tracking System (NATS) by submitting "EPA Form 7620-15, General Account
6 information".

7 (b) NOx budget units shall transfer NOx allowances under the NOx Budget Trading
8 Program from one (1) account to another in the NOx Allowance Tracking System
9 (NATS) by submitting "EPA Form 7620-14".

10 (c) NOx allowances shall not be deducted for compliance with subsection (1) of
11 this section for a control period prior to the year for which the NOx allowances were
12 allocated.

13 (d) If the U.S. EPA records the allocation, transfer, or deduction of NOx allowances
14 from the compliance or overdraft account of a NOx budget source, this action shall:

15 1. Automatically amend and become part of the NOx budget portion of the source's
16 permit; and

17 2. Require no further review.

18 (e) The owner or operator of a NOx budget unit having excess NOx emissions for
19 each control period beginning in 2004, shall comply with 401 KAR 51:190.

20 (f) Allocated NOx allowances shall not constitute a property right.

21 (3) Recordkeeping and reporting requirements.

22 (a) The owner or operator of a NOx budget source shall maintain the following
23 records:

1 1. The "Account Certificate of Representation" for the source's NOx authorized
2 account representative;

3 2. Emissions monitoring information as specified in 40 C.F.R. [~~GFR~~] 96.70 to
4 96.76;

5 3. Copies of all reports, compliance certifications, and other submissions and
6 records required by 401 KAR 51:190; and

7 4. Copies of documents used to complete permit revision applications or to
8 demonstrate compliance with 401 KAR 51:190.

9 (b) These records shall be:

10 1. Used to demonstrate compliance with subsection (1) of this section;

11 2. Maintained on site for a period of five (5) years, unless a longer period is
12 required by 40 C.F.R. [~~GFR~~] 96.70 to 96.76 or the cabinet or the U.S. EPA requires an
13 extended period for cause; and

14 3. Made available for inspection on request by the cabinet or the U.S. EPA.

15 (4) Computation of time.

16 (a) A time period scheduled to begin on the occurrence of an act or event shall
17 begin on the day the act or event occurs.

18 (b) A time period scheduled to begin before the occurrence of an act or event shall
19 be computed so that the period ends the day before the act or event occurs.

20 (c) If the final day of a time period falls on a weekend or state or federal holiday,
21 the time period shall be extended to the next business day.

22 Section 4. Methodology for the Allocation and Sale of NOx Allowances. The
23 number of NOx allowances to be allocated to each NOx budget unit by the cabinet and

1 to be sold by the Commonwealth of Kentucky shall be determined pursuant to this
2 section.

3 (1) The total number of NOx allowances shall be the number of NOx allowances
4 assigned to Kentucky by the U.S. EPA and approved in Kentucky's State
5 Implementation Plan (SIP).

6 (2) The total number of NOx allowances assigned to Kentucky shall be divided into
7 separate pools as follows:

8 (a) The number of NOx allowances specified in Kentucky's approved SIP for
9 electric generating units with:

10 1. Ninety-five (95) percent of this amount allocated for the 2004 to 2006 allocation
11 period to units that commence commercial operation on or before May 1, 2001;

12 2. Five (5) percent of this amount for the 2004 to 2006 allocation period sold by the
13 Commonwealth of Kentucky with the proceeds deposited in Kentucky's general fund;

14 3. Ninety-eight (98) percent of this amount allocated for each allocation period
15 beginning with the 2007 to 2009 allocation period to units that commence commercial
16 operation on or before May 1 of the year that is three (3) years before the first year of
17 the applicable allocation period; and

18 4. Two (2) percent of this amount for each allocation period beginning with the
19 2007 to 2009 allocation period and each allocation period thereafter sold by the
20 Commonwealth of Kentucky with the proceeds deposited in Kentucky's general fund;
21 and

22 (b) The number of NOx allowances specified in Kentucky's approved SIP for
23 industrial boilers or turbines with:

1 1. Ninety-eight (98) percent of this amount allocated for each allocation period to
2 units that commence commercial operation on or before May 1 of the year that is three
3 (3) years before the first year of the applicable allocation period; and

4 2. Two (2) percent of this amount allocated for each allocation period to NOx
5 budget units that commence commercial operation after May 1 of the year that is three
6 (3) years before the first year of the applicable allocation period and on or before May 1
7 of the applicable control period.

8 (3) The cabinet shall notify the U.S. EPA and NOx budget sources of the NOx
9 allowances to be allocated and sold from the pools specified in subsection (2) of this
10 section pursuant to Section 5(4) of this administrative regulation.

11 (4) For allocation of the pools specified in subsection (2)(a)1, 3 and (b) of this
12 section, heat input, in MMBTU, of a NOx budget unit shall be determined from:

13 (a) The average of the two (2) highest amounts of the unit's heat input from the
14 three (3) most recent control periods as determined in accordance with 40 C.F.R. [GFR]
15 Part 75 or 96.70 to 96.76 if the unit is subject to 40 C.F.R. [GFR] Part 75; or

16 (b) The best available data reported to the cabinet for the unit if the unit is not
17 otherwise subject to 40 C.F.R. [GFR] Part 75.

18 (5) For electric generating units included in the pools specified in subsection
19 (2)(a)1 and 3 of this section, the cabinet shall allocate NOx allowances to each NOx
20 budget unit in an amount equal to the result obtained by:

21 (a) Multiplying 0.15 lb/MMBTU or the permit limit, whichever is less, by the heat
22 input determined under Section 4(4) of this administrative regulation, rounded to the
23 nearest whole NOx allowance as appropriate.

1 (b) If the initial total number of NOx allowances allocated for an allocation period to
2 all NOx budget units in Kentucky included in the pools specified in subsection (2)(a)1
3 and 3 of this section does not equal ninety-five (95) percent for the 2004 to 2006
4 allocation period, or ninety-eight (98) percent for each allocation period thereafter, of the
5 number of tons of NOx emissions in Kentucky's trading program budget apportioned to
6 existing electric generating units, the cabinet shall:

7 1. Adjust the total number of NOx allowances allocated to all electric generating
8 units in the applicable pool so that the total number of NOx allowances allocated equals
9 ninety-five (95) percent for the 2004 to 2006 allocation period, or ninety-eight (98)
10 percent for each allocation period thereafter, of the number of tons of NOx emissions in
11 Kentucky's trading program budget apportioned to electric generating units; and

12 2. Make this adjustment by multiplying each unit's allocation by ninety-five (95)
13 percent for the 2004 to 2006 allocation period, or ninety-eight (98) percent thereafter, of
14 the number of tons of NOx emissions in Kentucky's trading program budget apportioned
15 to electric generating units divided by the total number of NOx allowances allocated
16 under paragraph (a) of this subsection, and rounding to the nearest whole NOx
17 allowance as appropriate.

18 (6) For industrial boilers or turbines included in the pool specified in subsection
19 (2)(b)1 of this section, the cabinet shall allocate NOx allowances to each NOx budget
20 unit in an amount equal to the result obtained by:

21 (a) Multiplying 0.17 lb/MMBTU or the permit limit, whichever is less, by the heat
22 input determined under subsection (4) of this section, rounded to the nearest whole
23 NOx allowance as appropriate.

1 (b) If the initial total number of NOx allowances allocated for an allocation period to
2 all NOx budget units in Kentucky included in the pool specified in subsection (2)(b)1 of
3 this section does not equal ninety-eight (98) percent for each allocation period, of the
4 number of tons of NOx emissions in Kentucky's trading program budget apportioned to
5 existing industrial boilers or turbines, the cabinet shall:

6 1. Adjust the total number of NOx allowances allocated to all industrial boilers or
7 turbines in the applicable pool so that the total number of NOx allowances allocated
8 equals ninety-eight (98) percent for each allocation period, of the number of tons of NOx
9 emissions in Kentucky's trading program budget apportioned to industrial boilers or
10 turbines; and

11 2. Make this adjustment by multiplying each unit's allocation by ninety-eight (98)
12 percent, of the number of tons of NOx emissions in Kentucky's trading program budget
13 apportioned to industrial boilers or turbines divided by the total number of NOx
14 allowances allocated under paragraph (a) of this subsection, and rounding to the
15 nearest whole NOx allowance as appropriate.

16 (7)(a) The Commonwealth of Kentucky shall establish an account pursuant to 401
17 KAR 51:190 for the purpose of selling the NOx allowances in the pools specified in
18 subsection (2)(a)2 and 4 of this section. The proceeds from the sale of the NOx
19 allowances shall be deposited in the general fund of the Commonwealth of Kentucky.

20 (b) For NOx budget units included in the pool specified in subsection (2)(b)2 of this
21 section, the cabinet shall allocate NOx allowances to each unit according to the
22 following procedures:

1 1. The cabinet shall establish one (1) allocation set-aside for each control period.
2 Each allocation set-aside shall be allocated NOx allowances equal to two (2) percent for
3 each control period of the tons of NOx emissions in Kentucky's trading program budget,
4 rounded to the nearest whole NOx allowance as appropriate.

5 2. The NOx authorized account representative may submit to the cabinet a
6 request, in writing, to be allocated NOx allowances starting with the control period
7 during which the NOx budget unit commences commercial operation, or is projected to
8 commence commercial operation, and ending with the control period preceding the
9 control period for which it will receive an allocation under subsection (2)(b)1 of this
10 section.

11 a. The NOx allowance allocation request shall be submitted prior to May 1 of the
12 first control period for which the NOx allowance allocation is requested and after the
13 date on which the cabinet issues a permit to construct to the NOx budget unit; and

14 b. For a control period, the NOx authorized account representative may request
15 NOx allowances in an amount that does not exceed 0.17 lb/MMBTU or the permitted
16 limit, whichever is less, multiplied by the NOx budget unit's maximum design heat input
17 in MMBTU/hr multiplied by the number of hours remaining in the control period starting
18 with the first day in the control period on which the unit operated or is projected to
19 operate.

20 3. The cabinet shall review, and allocate NOx allowances pursuant to, each NOx
21 allowance allocation request in the order that the requests are received by the cabinet
22 as of the close of business each day, with each consecutive day determining the order:

1 a. Upon receipt of the NOx allowance allocation request, the cabinet shall
2 determine whether, and shall make any necessary adjustments to the request to ensure
3 that the control period and the number of NOx allowances specified are consistent with
4 the requirements of this subsection;

5 b. If the allocation set-aside for the control period for which NOx allowances are
6 requested:

7 (i) Has an amount of NOx allowances not less than the number requested, as
8 adjusted by the cabinet, the cabinet shall allocate the amount of the NOx allowances
9 requested, as adjusted by the cabinet, to the NOx budget unit.

10 (ii) Has a smaller amount of NOx allowances than the number requested, as
11 adjusted by the cabinet, the cabinet will deny in part the request and allocate only the
12 remaining number of NOx allowances in the allocation set-aside to the NOx budget unit.

13 (iii) Once an allocation set-aside for a control period has been depleted of all NOx
14 allowances, the cabinet shall deny, and shall not allocate any NOx allowances pursuant
15 to a NOx allowance allocation request under which NOx allowances have not already
16 been allocated for the control period.

17 4. Within sixty (60) days of receipt of a NOx allowance allocation request, the
18 cabinet shall take appropriate action under this subsection and shall notify the U.S. EPA
19 of the number of NOx allowances allocated for the control period to the NOx budget
20 unit.

21 5. For a NOx budget unit that is allocated NOx allowances under this
22 subparagraph, the U.S. EPA shall deduct NOx allowances to account for the actual
23 utilization of the unit during the control period, and for any NOx allowances returned to

1 Kentucky, the cabinet shall allocate to the NOx budget units in Kentucky using the
2 following formula and rounding to the nearest whole NOx allowance as appropriate:

3 a. Unit's share of NOx allowances remaining in allocation set-aside equals total
4 NOx allowances remaining in allocation set-aside multiplied by the quantity generated
5 by dividing the unit's NOx allowance allocation by Kentucky's trading program budget
6 excluding allocation set-aside;

7 b. If:

8 (i) Total NOx allowances remaining in allocation set-aside is the total number of
9 NOx allowances remaining in the allocation set-aside for the control period to which the
10 allocation set-aside applies;

11 (ii) Unit's NOx allowance allocation is the number of NOx allowances allocated
12 under subsection (2)(b)2 of this section to the unit for the control period to which the
13 allocation set-aside applies; and

14 (iii) State trading program budget excluding allocation set-aside is Kentucky's
15 trading program budget for the control period to which the allocation set-aside applies
16 multiplied by ninety-five (95) percent if the control period is in 2004, 2005, or 2006 or
17 ninety-eight (98) percent if the control period is in any year thereafter, rounded to the
18 nearest whole NOx allowance as appropriate.

19 (8) NOx allowances created pursuant to 401 KAR 51:180 for early reduction credits
20 or emergency compliance shall not be included in the allocation or sale of the pools
21 specified in this section.

22 Section 5. Allocation of NOx Allowances. (1) The cabinet shall determine the
23 number of NOx allowances to be allocated to eligible NOx budget units for the allocation

1 period beginning in 2004 and in each subsequent allocation period using the method
2 described in Section 4 of this administrative regulation.

3 (2) A NOx budget unit that commences commercial operation on or before May 1
4 of the year that is three (3) years before the first year of the applicable allocation period
5 shall be included in the applicable allocation pool as specified in Section 4(2)(a)1, 3, or
6 (b)1 of this administrative regulation.

7 (3) If the U.S. EPA changes the number of NOx allowances assigned to Kentucky
8 before the end of an allocation period, the cabinet shall reallocate the NOx allowances
9 prior to the beginning of the next control period in the same ratio as the original
10 allocation for that period.

11 (4) The cabinet shall notify the U.S. EPA and NOx budget sources of the NOx
12 allowances to be allocated and sold by the Commonwealth of Kentucky pursuant to this
13 section and Section 4 of this administrative regulation:

14 (a) For units that commence commercial operation on or before May 1 of the year
15 that is three (3) years before the first year of the applicable allocation period:

16 1. Not later than sixty (60) days after the effective date of this administrative
17 regulation for the allocation period beginning in 2004; and

18 2. By April 1 of the year that is three (3) years prior to the next allocation period;
19 and

20 (b) By April 1 of each year, beginning in 2004, for units in the pool specified in
21 Section 4(2)(b)2 of this administrative regulation that commence commercial operation
22 after May 1 of the year that is three (3) years before the first year of the applicable
23 allocation period and on or before May 1 of the applicable control period.

(5) Excess NOx allowances may be banked and traded according to 401 KAR 51:190.

Section 6. Application for NOx Budget Permit or Permit Revision. (1) The NOx authorized account representative of a NOx budget source shall submit an application to revise the source's permit pursuant to 401 KAR 52:020 or 401 KAR 52:030, as appropriate, and this section. For this purpose, the source shall use:

(a) "Forms DEP7007A1 to DD, Permit Application to Construct or Operate an Air Contaminant Source," as applicable. Forms DEP7007A1 to DD is incorporated by reference in 401 KAR 52:050; and

(b) "Form DEP7007EE, NOx Budget Permit Application".

(2) The application shall include the following information:

(a) The Office of Regulatory Information Systems (ORIS) or facility code assigned to the source by the Energy Information Administration;

(b) Identification of:

1. Each NOx budget unit at the source;
2. Each retired unit; and
3. Each unit exempted pursuant to Section 2(1) of this administrative regulation;

(c) A statement that explains if the unit is:

1. A unit described in Section 1 of this administration regulation; or
2. An opt-in unit pursuant to 401 KAR 51:195;

(d) The applicable requirements of Section 3 of this administrative regulation; and

(e) For opt-in units, the following certification statement signed by the NOx authorized account representative: "I certify that each unit for which this permit

1 application is submitted, pursuant to the opt-in provisions of 401 KAR 51:195, is
2 operating; is not a NOx budget unit pursuant to 401 KAR 51:160, Section 1; and is not
3 covered by a retired exemption unit that is in effect pursuant to 401 KAR 51:160,
4 Section 2(2)."

5 Section 7. Compliance. (1) Compliance certification. On or before November 30
6 each year, beginning in 2004, the NOx authorized account representative shall submit a
7 compliance certification report to the cabinet and to the U.S. EPA pursuant to 401 KAR
8 51:190.

9 (2) Reporting to the cabinet. Reports that are required to be submitted to the
10 cabinet shall be mailed to:

11 1. Manager, Permit Review Branch, Kentucky Division for Air Quality, 803
12 Schenkel Lane, Frankfort, Kentucky 40601; and

13 2. To the appropriate Regional Office of the Division for Air Quality listed in Section
14 8(2) of this administrative regulation.

15 Section 8. Incorporation by Reference. (1) The following material is incorporated by
16 reference:

17 ~~[(a) 40 CFR 96.70 to 96.76, "Monitoring and Reporting", as published in the Code~~
18 ~~of Federal Regulations, 40 CFR Part 96, July 1, 1999;]~~

19 (a) ~~[(b)]~~ "Form DEP7007EE, NOx Budget Permit Application", May 2002;

20 (b) ~~[(e)]~~ "EPA Form 7620-14, Allowance Transfer", United States Environmental
21 Protection Agency, OMB No. 2060-0445;

22 (c) ~~[(d)]~~ "EPA Form 7620-15, General Account Information", United States
23 Environmental Protection Agency, OMB No. 2060-0445; and

(d) [(e)] "EPA Form 7620-16, Account Certificate of Representation", United States Environmental Protection Agency, OMB No. 2060-0445.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382; and

(b) The appropriate regional office of the Division for Air Quality as follows:

1. Ashland Regional Office, 1550 Wolohan Drive, Suite 1, [~~3700 Thirteenth Street~~], Ashland, Kentucky 41102 [~~41105~~], (606) 929-5285 [~~920-2067~~];

2. Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;

3. Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 525-4923;

4. Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

5. London Regional Office, 875 South Main Street, London, Kentucky 40741, (606) 878-0157;

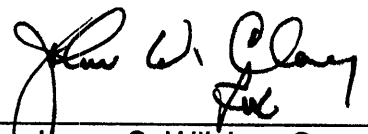
6. Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 687-7304; or [and]

7. Paducah Regional Office, 130 Eagle Nest Drive [~~4500 Clarks River Road~~], Paducah, Kentucky 42003, (270) 898-8468.

1 (3)(a) Copies of the Code of Federal Regulations (C.F.R.) [~~(C.F.R.)~~] and Federal
2 Register (Fed. Reg.) are available for sale from the Superintendent of Documents, U.S.
3 Government Printing Office, Washington, D.C. 20402.

4 (b) Copies of Forms DEP7007EE-1 to EE-3 are available on the Internet at
5 <http://www.air.ky.gov/permitting/Permit+Application+Forms.htm>
6 [<http://www.nr.state.ky.us/nrepc/dep/dag/prb/dagapp.htm>].

9.9.2005
Date


Lajuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2005, at 10:00 a.m. (local time) in the Conference Room of the Division for Air Quality at 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation.

If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 31, 2005. Send written notification of intent to be heard at the hearing or written comments on the proposed administrative regulation to the contact person.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Gerry Ennis, Environmental Technologist III, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, telephone number (502) 573-3382, facsimile number (502) 573-3787, and electronic mail: gerry.ennis@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gerry Ennis

(1) Provide a brief summary of:

- (a) What this administrative regulation does:** The proposed administrative regulation requires the reduction of nitrogen oxide (NOx) emissions from large utility and industrial boilers in order to comply with the federally mandated NOx SIP Call.
- (b) The necessity of this administrative regulation:** Kentucky is one of 21 states required by the U.S. EPA to lower NOx emissions. This administrative regulation complies with this mandate.
- (c) How this administrative regulation conforms to the content of the authorizing statutes:** KRS 224.10-100(5) requires the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This regulation will result in the reduction of NOx emissions from large utility and industrial boilers.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This regulation contains the methods required for achieving the federally mandated emissions reductions from large utility and industrial boilers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation:** The amendment proposes to exempt carbon monoxide (CO) boilers associated with fluidized catalytic cracking units (FCCUs) at petroleum refineries from the requirements of the NOx SIP Call Inventory.
- (b) The necessity of the amendment to this administrative regulation:** Regulating FCCU-CO boilers at oil refineries under the NOx trading program is not only inconsistent across the affected states but also involves significant costs to the affected facility and the regulating agencies. Because the U.S. EPA allows each affected state the option to include in its NOx Inventory, either all or none of these FCCU-CO boilers, they are not required to be part of the NOx trading program.
- (c) How the amendment conforms to the content of the authorizing statutes:** The amendment will exempt CO boilers associated with FCCUs from the NOx SIP Call Inventory. This exemption is consistent with EPA's applicability statement for the NOx SIP Call.
- (d) How the amendment will assist in the effective administration of statutes:** The amendment further clarifies the NOx SIP Call provisions and requirements for regulated sources subject to the federal mandate. Removing the FCCU-CO boilers from the NOx SIP Call Inventory will result in a greater benefit in CO emissions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. About fifty-

five sources will remain subject to the requirements of this regulation. Only one source, Marathon Ashland Petroleum (MAP), located in Boyd County, will be affected by the exemption removing its CO boilers removed from the NOx Trading Program.

- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:** This amendment will have significant impact on Marathon-Ashland Petroleum by reducing its annual operating costs associated with monitoring and reporting because the units are no longer subject to the requirements in 40 C.F.R. Part 75, Trading Program. Additionally, the facility will lose the option of selling emissions credits, thereby reducing its income potential.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:**
- (a) Initially:** The cabinet will not incur any additional costs for the implementation of this amendment.
- (b) On a continuing basis:** There will not be any continuing costs for the implementation of this amendment.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** The cabinet's current operating budget will be used for the implementation and enforcement of this regulation.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment.** No increase in fees or funding is necessary to implement the proposed amendment.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees.** This amendment does not establish, nor does it directly or indirectly increase any fees.
- (9) TIERING: Is tiering applied?** Yes. This amendment exempts CO boilers associated with FCCUs from the requirements in Sections 3 through 7 of this administrative regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

- 1. Federal statute or regulation constituting the federal mandate.** The federal Clean Air Act (42 U.S.C. 7401 to 7671q) requires states to implement a plan (SIP) that will achieve and maintain the National Ambient Air Quality Standards (NAAQS), and authorizes the U.S. EPA to determine the adequacy of the SIP.
- 2. State compliance standards.** The state compliance standards are found in KRS 224.10-100(5), 224.20-100, 224.20-110, and 224.20-120.
- 3. Minimum or uniform standards contained in the federal mandate.** The federal mandate requires states to regulate large utility and industrial boilers for the reduction of nitrogen oxide (NOx) emissions.
- 4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?** No.
- 5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.** This administrative regulation will not impose stricter standards, or additional or different responsibilities or requirements than those required by the federal mandate.

FISCAL NOTE ON LOCAL GOVERNMENT

Administrative Regulation #: 401 KAR 51:160

Contact Person: Gerry Ennis

New ☐ **Amendment** ☒

1. **Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?**
Yes ☒ **No** ☐
2. **State what unit, part or division of local government this administrative regulation will affect?** This administrative regulation will affect any unit, part or division of local government operating a unit that meets the applicability determination of Section 1.
3. **State the aspect or service of local government to which this administrative regulation relates?** This administrative regulation will affect any government-owned generator with a nameplate capacity greater than twenty-five (25) Mwe that sells electricity and any other unit with a maximum design heat input greater than 250 million BTU/hr.
4. **Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

Revenues (+/-): Any effect on current revenues is unknown.

Expenditures (+/-): While potential costs cannot be quantified, this administrative regulation is more cost efficient than a Federal Implementation Plan.

Other Explanation: There is no other explanation.

Summary of Material
Incorporated by Reference
401 KAR 51:160
(Not Amended)

"Form DEP7007EE, NOx Budget Permit Application", May 2002;

"EPA Form 7620-14, Allowance Transfer", United States Environmental Protection Agency, OMB No. 2060-0445;

"EPA Form 7620-15, General Account Information", United States Environmental Protection Agency, OMB No. 2060-0445; and

"EPA Form 7620-16, Account Certificate of Representation", United States Environmental Protection Agency, OMB No. 2060-0445.